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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,042	10/07/2003	James Talaric	17-01A	2694

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EXAMINER

MILLS, DANIEL J

ART UNIT PAPER NUMBER

3679

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/681,042

Applicant(s)

TALARIC ET AL.

Examiner

Daniel J. Mills

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 4-8, 17-20 and 29-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 9-16 and 21-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restriction

Claims 29-34 withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected method of assembly, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 7/11/2005.

Applicant's election with traverse of Invention I, mannequin joints, in the reply filed on 7/11/2005 is acknowledged. The traversal is on the ground(s) that both inventions are related to the art of mannequin joints and therefore the search would be coextensive. Because of a coextensive search there would be no serious burden on the examiner. This is not found persuasive because applicants have failed to show that a coextensive search is a reason for not making a restriction requirement. Further, applicants have failed to show that the search, in fact, is coextensive or that "search" is the only criteria in determining "serious burden". Nevertheless, given that patentability for process claims is based on process steps irrespective of recited structure, and patentability for product claims is based on structure irrespective of recited process steps, it is readily apparent that a serious burden on the examiner would exist to search and examine (including consideration of and response to any arguments presented) claims drawn to two patentably distinct inventions in the same application, especially when patentability is predicated on two different sets of criteria.

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Claims 4-8, 17-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 7/11/2005.

The requirement is still deemed proper and is therefore made FINAL.

Drawings

The drawings are objected to because improper crosshatching is used in figures 2B, 4A, 4B, 5A, 6A, 7. It is not clear what numerals 60, 74, 80, 50, 105 refer to. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 9-14, 22-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Rice (US 2,108,927).

Regarding claim 1, Rice discloses a joint structure for joining limb members of a mannequin comprising a slit (12A) positioned on the joining end of a first limb member (12), a tab (19) attached to the joining end of a second limb member (13), adapted to be received by the slit and pivotally attached to said first limb member, and a friction-producing assembly fixture (20) recessed within the first limb member and in contact with said tab.

Regarding claim 2, Rice discloses a joint structure wherein the tab (19) is fixedly attached to the second limb member.

Regarding claim 3, Rice discloses a joint structure wherein the tab (19) is molded as one unit with the second limb member (shown in figure 6).

Regarding claim 9, Rice discloses a joint structure wherein the friction-producing assembly fixture (20) recessed in the first member to be joined comprises an open-ended chamber (shown in figure 7) extending into the first member from said slit, a reversibly-compressible material (spring shown in figure 7) positioned at the closed end

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of said chamber, and a bearing (pointed to by 20 in figure 7) positioned between the reversibly-compressible material and the tab.

Regarding claim 10, Rice discloses a joint structure wherein the reversibly-compressible material is a spring (shown in figure 7; see column 2 lines 32-35).

Regarding claim 11, Rice discloses a joint structure wherein the tab (19) is attached to the first limb member (12) by means of a pivot pin (18) extending through said tab and at least partly through said first limb member.

Regarding claim 12, Rice discloses a joint structure which forms a joint selected from the group consisting of a neck, a shoulder, an elbow, a hip, a knee, and an ankle (a knee joint is clearly shown).

Regarding claim 13, Rice discloses a mannequin (figure 1) comprising a joint structure as claimed.

Regarding claim 14, Rice discloses a joint structure for joining limb members of a mannequin comprising a slit (12A) positioned on the joining end of a first limb member (12), a tab (19) attached to the joining end of a second limb member (13), adapted to be received by the slit and pivotally attached to said first limb member by means of a pivot pin (18) extending through said tab and at least partly through said first limb member, and a friction-producing assembly fixture (20) recessed within the first limb member, said friction-producing assembly fixture comprising an open-ended chamber (shown in figure 7) extending into the first member from said slit, a spring (shown in figure 7; see column 2 lines 32-35) positioned at the closed end of said chamber, and a bearing (pointed to by 20 in figure 7) positioned between the spring and the tab.

Regarding claim 22, Rice discloses a joint structure for joining limb members of a mannequin wherein the friction-producing assembly fixture (20) recessed in the first member (12) to be joined comprises an open-ended chamber (shown in figure 7) extending into the first member from said slit (12A), a reversibly-compressible material (spring shown in figure 7; see column 2 lines 32-35) positioned at the closed end of said chamber and a bearing (pointed to by 20 in figure 7) positioned between the reversibly-compressible material and the tab.

Regarding claim 23, Rice discloses a joint structure for joining limb members of a mannequin wherein the reversibly-compressible material is a spring (shown in figure 7; see column 2 lines 32-35).

Regarding claim 24, Rice discloses a joint structure for joining limb members of a mannequin wherein the tab (19) is attached to the first limb member (12) by means of a pivot pin (18) extending through said tab and at least partly through said first limb member.

Regarding claim 25, Rice discloses a mannequin (figure 1) comprising a joint structure as claimed.

Regarding claim 26, Rice discloses a joint structure for joining limb members of a mannequin wherein said joint structure forms a joint selected from the group consisting of a neck, a shoulder, an elbow, a hip, a knee, and an ankle (a knee joint is clearly shown).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15, 16, 21, 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rice (US 2,108,927) in view of Harris (US 3,383,962).

Regarding claim 15, Rice discloses joint structure for joining limb members of a mannequin comprising a slit (12A) positioned on the joining end of a first limb member (12), a tab (19) attached to the joining end of a second limb member (13), adapted to be received by the slit and pivotally attached to said first limb member, and a friction-producing assembly fixture (20) recessed within the first limb member and in contact with said tab. Rice fails to disclose a tab having one or more surface depressions.

Harris teaches the use of a tab (18) having one or more surface depressions (24), for the purpose of allowing detent engagement to retain a selected positions of the limb members (11 and 17). Accordingly, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the arrangement of Rice to include surface depressions in the tab as taught by Harris for the purpose of retaining selected positions of the limb members.

Regarding claim 16, Rice in view of Harris discloses a joint structure wherein the tab (19) is molded as one unit with the second limb member (shown in figure 6).

Regarding claim 21, Rice in view of Harris discloses a joint structure wherein the surface depressions are grooves (Harris shows 24 to be grooves in the surface).

Regarding claim 27, Rice in view of Harris discloses a joint structure for joining limb members of a mannequin comprising a slit (12A) positioned on the joining end of a first limb member (12), a tab (19) attached to the joining end of a second limb member (13), adapted to be received by the slit and pivotally attached to said first limb member by means of a pivot pin (18) extending through said tab and at least partly through said first limb member, said tab having one or more surface depressions (24 taught by Harris as detailed above), a friction-producing assembly fixture (20) recessed within the first limb member, said friction-producing assembly fixture comprising an open-ended chamber (shown in figure 7) extending into the first member from said slit, a spring (spring shown in figure 7; see column 2 lines 32-35) positioned at the closed end of said chamber, and a bearing (pointed to by 20 in figure 7) positioned between the spring and the tab.

Regarding claim 28, Rice in view of Harris discloses a joint structure wherein the surface depressions are grooves (Harris shows 24 to be grooves in the surface).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sanders (US 235,300), Scott (US 2,886,998), Parke (US 4,463,632), Berman (US 5,800,243), Potter (US 5,842,808), Hsieh (US 6,148,698), Lan

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(US 6,220,125), Farenholtz (US 6,478,500) are cited for pertaining to joints such as those used in mannequins.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J. Mills whose telephone number is 571-272-8115. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DJM
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8/2/2005



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